



*Department of Planning, Building and Code Enforcement*

STEPHEN M. HAASE, AICP, DIRECTOR

**PUBLIC NOTICE  
INTENT TO ADOPT A MITIGATED NEGATIVE DECLARATION  
CITY OF SAN JOSÉ, CALIFORNIA**

***Project File Number, Description, and Location***

PDC03-046. Planned Development Rezoning from unincorporated County of Santa Clara to A(PD) Planned Development Zoning District, Annexation, and subsequent permits to allow 15 single-family attached residential units on a 1.02 gross acre site located at the southside of Curtner Avenue approximately 630 feet westerly of Bascom Avenue. (K. Naderzad, Owner, Que Nader Recon Development Developer). Council District: 9

California State Law requires the City of San José to conduct environmental review for all pending projects that require a public hearing. Environmental review examines the nature and extent of any potentially significant adverse effects on the environment that could occur if a project is approved and implemented. The Director of Planning, Building & Code Enforcement would require the preparation of an Environmental Impact Report if the review concluded that the proposed project could have a significant unavoidable effect on the environment. The California Environmental Quality Act (CEQA) requires this notice to disclose whether any listed toxic sites are present. The project location **does not** contain a listed toxic site.

Based on an initial study, the Director has concluded that the project described above will not have a significant effect on the environment. We have sent this notice to all owners and occupants of property within 500 feet of the proposed project to inform them of the Director's intent to adopt a Mitigated Negative Declaration for the proposed project on **October 22, 2003**, and to provide an opportunity for public comments on the draft Mitigated Negative Declaration. The public review period for this draft Mitigated Negative Declaration begins on **October 3, 2003** and ends on **October 22, 2003**.

A public hearing on the project described above is tentatively scheduled for **October 22, 2003 at 6:00 p.m.** in the City of San Jose Council Chambers, 801 N. First Street, San Jose, CA 95110. The draft Mitigated Negative Declaration, initial study, and reference documents are available for review under the above file number from 9:00 a.m. to 5:00 p.m. Monday through Friday at the City of San Jose Department of Planning, Building & Code Enforcement, City Hall, 801 N. First Street, Room 400, San Jose, CA 95110. The documents are also available at the Dr. Martin Luther King, Jr. Main Library, 150 E. San Fernando St, San José, CA 95112, and the Cambrian Branch Library, 1780 Hillsdale Avenue, San José, CA 95124 San Jose, and online at [www.ci.san-jose.ca.us/planning/sjplan/eir/mnd2003.htm](http://www.ci.san-jose.ca.us/planning/sjplan/eir/mnd2003.htm). Adoption of a Negative Declaration does not constitute approval of the proposed project. The decision to approve or deny the project described above will be made separately as required by City Ordinance. For additional information, please call **Dipa Chundur** at (408) 277-4576.

Stephen M. Haase, AICP  
Director, Planning, Building and Code Enforcement

Circulated on: \_\_\_\_\_

\_\_\_\_\_  
Deputy

**DRAFT  
MITIGATED NEGATIVE DECLARATION**

The Director of Planning, Building and Code Enforcement has reviewed the proposed project described below to determine whether it could have a significant effect on the environment as a result of project completion. "Significant effect on the environment" means a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance.

**NAME OF PROJECT:** Villa Montavo

**PROJECT FILE NUMBER:** PDC03-046

**PROJECT DESCRIPTION:** Planned Development Rezoning from unincorporated County of Santa Clara to A(PD) Planned Development Zoning District, Annexation, and subsequent Permit to allow 15 single-family attached residential units on a 1.02 gross acre site

**PROJECT LOCATION & ASSESSORS PARCEL NO.:** Southside of Curtner Avenue approximately 630 feet westerly of Bascom Avenue; APN: 416-06-002

**COUNCIL DISTRICT:** 9

**NAME OF APPLICANT:** Que Nadir

**MAILING ADDRESS AND PHONE NO. OF APPLICANT CONTACT PERSON:** Que Nadir, Recon Development, P.O Box 3209, Saratoga, CA- 95070. Phone Number: 408-781-4266

**FINDING**

The Director of Planning, Building & Code Enforcement finds the project described above will not have a significant effect on the environment in that the attached initial study identifies one or more potentially significant effects on the environment for which the project applicant, before public release of this draft Mitigated Negative Declaration, has made or agrees to make project revisions that clearly mitigate the effects to a less than significant level.

**MITIGATION MEASURES INCLUDED IN THE PROJECT TO REDUCE POTENTIALLY SIGNIFICANT EFFECTS TO A LESS THAN SIGNIFICANT LEVEL**

**Air Quality.** Prudent precautions will be taken to minimize short term air quality impacts during construction activities. While the project is under construction, the developer shall implement effective dust control measures to prevent dust and other airborne matter from leaving the site. The BAAQMD has prepared a list of feasible construction dust control measures that can reduce construction impacts

to a level that is less than significant. The following construction practices should be implemented during all phases of construction on the project site: 1) Use dust-proof chutes for loading construction debris onto trucks. 2) Water to control dust generation during demolition of structures and break-up of pavement. 3) Cover all trucks hauling demolition debris from the site. 4) Water or cover stockpiles of debris, soil, sand, or other materials that can be blown by the wind. 5) Cover all trucks hauling soil, sand, or other loose materials, or require trucks to maintain at least two feet of freeboard. 6) Sweep daily (preferably with water sweepers) all paved access roads, parking areas, and staging areas at construction sites. 7) Sweep streets daily (preferably with water sweepers) if visible soil material is carried onto adjacent public streets. 8) Enclose, cover, water twice daily, or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.). 9) Install sandbags or other erosion control measures to prevent silt runoff to public roadways. 10) Replant vegetation in disturbed areas as quickly as possible.

**Biological Resources.** 1) Trees to remain shall be safeguarded during construction by a Tree Protection Plan, including measures such as the storage of oil, gasoline, chemicals, etc. away from trees; grading around trees only as approved, and prevention of drying out of exposed soil where cuts are made; no dumping of liquid or solid wastes in the dripline or uphill from any tree; and construction of barricades around the dripline of the trees, as outlined in the City's Tree Ordinance, that shall be approved by the Director of Planning prior to the issuance of a grading permit. 2) Standard conditions for the replacement for trees removed on the project site will be included as follows: trees 18" in circumference or greater = 4:1 24" box; trees 12-18" in circumference = 2:1 15 gallon; each trees less than 12" in circumference = 1:1 15 gallon.

**Cultural Resources.** 1) The following standard condition shall be included in the permit and land use plan to reduce any impacts to archaeological resources to less than significant levels: *Archaeology*. Pursuant to Section 7050.5 of the Health and Safety Code, and Section 5097.94 of the Public Resources Code of the State of California in the event of the discovery of human remains during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The Santa Clara County Coroner shall be notified and shall make a determination as to whether the remains are Native American. If the Coroner determines that the remains are not subject to his authority, he shall notify the Native American Heritage Commission who shall attempt to identify descendants of the deceased Native American. If no satisfactory agreement can be reached as to the disposition of the remains pursuant to this State law, then the land owner shall re-inter the human remains and items associated with Native American burials on the property in a location not subject to further subsurface disturbance.

**Geology and Soils.** 1) The project shall be designed and constructed to ensure structural stability as required by the earthquake design regulations of the Uniform Building Code.

**Hydrology and Water Quality.** 1) The project shall incorporate mitigation measures to minimize urban run-off. The mitigation measures include a storm water run-off management plan for construction activities to the satisfaction of the Department of Public Works, and compliance with all applicable City, Local, Regional, State and Federal laws. The project shall conform to the City of San Jose National Pollution Discharge Elimination System (NPDES) Storm Water Permit and shall include Best Management Practices (BMPs) as specified in the *Blueprint for a Clean Bay* to control the discharge of storm water pollutants including sediments associated with construction activities. Prior

to the issuance of a grading permit, the applicant may be required to submit an Erosion Control Plan to the City project Engineer. The Erosion Control Plan may include BMPs as specified by the Association of Bay Area Governments' Manual of Standards Erosion & Sediment Control Measures for reducing impacts on the City's storm drainage system from construction activities. For above, please call the Department of Public Works at (408) 277-5161.

**Noise.** 1) A condition is placed on the land use plan as well as subsequent development permit as follows: Noise Mitigation. Construction of all structures approved by this permit shall include implementation of the noise mitigation measures identified in the noise report dated July 8, 2003, prepared by Environmental Consulting Services, as required by the Director of Planning, Building and Code Enforcement. The recommendations per the Noise report are: (i) Windows. Windows must have an STC rating of at least 20DB. Standard openable double-glazed thermal windows, with two 1/8" lights separated by a 1/4" to 1/2" air space and good weather seals, typically have a rating of at least 28 STC and are clearly acceptable. (ii) Exterior Doors. Entrance doors and sliding glass doors for the closest units should meet an STC rating of 20 to match the overall reduction criteria. Solid wood doors or paneled doors (1 3/4") with good weather seals providing 21-23 dB of noise reduction would clearly be acceptable. (iii) Party Wall Assemblies. For minimizing noise transmitted between attached residential units, the party wall assembly should have several inches of air space, fiberglass insulation and minimal structural connections, in order to meet the 50 dBA STC requirement. In addition, any fire stops between units should not provide a strong structural connection. That is, they should be of lightweight material, such as sheet metal or fiberglass, which cannot conduct low frequency sound and vibration between units. (iv) Ventilation. Mitigation of outside traffic noise is based upon windows that are closed in order to provide the required noise protection. Therefore, all units, particularly those units nearest the traffic noise sources producing the primary noise, must have a ventilation system that provides a habitable interior environment with the windows closed, regardless of outside temperatures. In addition, if air condition units are installed, the noise levels produced by the AC units must not themselves cause a noise problem for any of the residential units associated with the project or adjacent residential properties. (v) Outdoor noise Protected Area. The City of San Jose encourages new residential multifamily projects to have outdoor noise-protected areas with noise levels of 55 dBA Ldn or less. Most units at the project site would have low noise levels of 55 dBA Ldn or less in their back yard areas, since they are protected both by the other residential structures and the fences around the backyards, and also by substantial distance to the roadway. The back patio of the unit adjacent to Curtner Avenue is has less protection for its outdoor backyard area, However, an eight foot solid wood fence around the back yard would provide 5-6 dBA of noise reduction, achieving backyard noise levels of about 56-58 dBA Ldn. (vi) General Design and Construction Practices. Good noise design must be implemented by good field construction practices or the design performance will not be achieved. This includes minimizing all penetrations of and connections between party wall and floor/ceiling assemblies, and acoustical sealant around any necessary penetrations.

2) Construction activities shall be limited to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday for any on-site or off-site work within 500 feet of any residential unit. Interior finishing work that does generate any audible noise outside the proposed buildings may be permitted on weekends from 8:00 a.m. to 7:00 p.m.

## PUBLIC REVIEW PERIOD

Before 5:00 p.m. on **Wednesday October 22, 2003**, any person may:

- (1) Review the Draft Mitigated Negative Declaration (MND) as an informational document only; or
- (2) Submit written comments regarding the information, analysis, and mitigation measures in the Draft MND. Before the MND is adopted, Planning staff will prepare written responses to any comments, and revise the Draft MND, if necessary, to reflect any concerns raised during the public review period. All written comments will be included as part of the Final MND; or
- (3) File a formal written protest of the determination that the project would not have a significant effect on the environment. This formal protest must be filed in the Department of Planning, Building and Code Enforcement, 801 North First Street, San Jose, Room 400 and include a \$100 filing fee. The written protest should make a "fair argument" based on substantial evidence that the project will have one or more significant effects on the environment. If a valid written protest is filed with the Director of Planning, Building & Code Enforcement within the noticed public review period, the Director may (1) adopt the Mitigated Negative Declaration and set a noticed public hearing on the protest before the Planning Commission, (2) require the project applicant to prepare an environmental impact report and refund the filing fee to the protestant, or (3) require the Draft MND to be revised and undergo additional noticed public review, and refund the filing fee to the protestant.

Stephen M. Haase, AICP  
Director, Planning, Building and Code Enforcement

Circulated on: \_\_\_\_\_

\_\_\_\_\_  
Deputy

Adopted on: \_\_\_\_\_

\_\_\_\_\_  
Deputy